IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Ashok Kumar. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 132/2006
against the order dated 27-7-2005 passed
by the Judicial Magistrate No.3, Jodhpur, in
Criminal Original Case No. 530/2005.

...

Date of Order: September 18, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. J.S. Choudhary, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 27-7-2005 passed by the Judicial Magistrate No.3, Jodhpur (for short, "the trial Court" hereinafter), whereby the application filed by the petitioner under Section 457 of the Code seeking custody of the currency notes which were seized in Criminal Case No. 530/2005, was dismissed.

I have heard learned counsel for the parties. Perused the order impugned.

From a perusal of the impugned order, it appears that the trial Court has dismissed the application only on the ground that the matter is at the investigation stage. Learned counsel for the petitioner submits that after completion of the investigation, the police has filed the Challan. In the circumstances, therefore, it is just and appropriate to permit the petitioner to file a fresh application before the trial Court for custody of the currency notes.

Consequently, the criminal miscellaneous petition is allowed; the impugned order dated 27-7-2005 passed by the trial Court is set aside and the petitioner is permitted to file a fresh application before the trial Court seeking custody of the currency notes. On filing such an application by the petitioner, the trial Court shall decide the same in accordance with law without being influenced by the impugned order. If the application, is filed, the same may be decided utmost expeditiously.

(H.R. PANWAR), J.

mcs